

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,) Docket No. 12 CR 872
)
Government,)
) Chicago, Illinois
vs.) October 16, 2013
) 11:00 o'clock a.m.
CHERRON MARIE PHILLIPS, also)
known as Cherron Phillips El,)
also known as River Tali El Bey,)
also known as River Tali Bey,)
also known as River Tali,)
also known as River,)
)
Defendant.)

TRANSCRIPT OF PROCEEDINGS - Pretrial Conference
BEFORE THE HONORABLE MICHAEL M. MIHM

APPEARANCES:

For the Government: UNITED STATES ATTORNEY'S OFFICE
SOUTHERN DISTRICT OF ILLINOIS
BY: MR. NATHAN D. STUMP
9 Executive Drive
Fairview Heights, Illinois 62208

For the Defendant: ATTORNEY AT LAW
BY: MS. LAUREN WEIL SOLOMON
P.O. Box 2013
Highland Park, Illinois 60035

Laura LaCien, CSR, RMR, CRR
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1 (The following proceedings were had in open court:)

2 COURTROOM DEPUTY: 12 CR 872, USA versus Cherron
3 Marie Phillips.

4 THE COURT: Can you give me the sheet of the
5 lawyers' names on it? Do I have a copy of that up here?

6 This is the case of *United States of America versus*
7 *Cherron Marie Phillips*, Criminal Number 12-00872. And
8 Cherron Marie Phillips is here; is that correct? Are you the
9 defendant?

10 THE DEFENDANT: I'm not the defendant but I'm --

11 THE COURT: Okay, fine. Do you want to have a seat
12 up in front?

13 THE DEFENDANT: Sure. May I approach?

14 THE COURT: I would prefer if you sit up at this
15 table.

16 THE DEFENDANT: Okay.

17 THE COURT: And we have stand-by counsel Lauren
18 Solomon, correct?

19 MS. SOLOMON: That's correct.

20 THE COURT: Okay. And Nathan Stump?

21 MR. STUMP: Yes. Good morning, your Honor.

22 THE COURT: Okay. Good morning.

23 This is set for a pretrial conference this morning.
24 I want to spend a minute talking about the history of this
25 case and what brought us to where we are today.

1 This case was indicted in November of 2012.
2 Following that, there was a decision by the defendant that
3 she wished to represent herself. She filed a number of
4 frivolous pleadings. Frankly, frivolous is a kind word. And
5 in that respect, Judge Shadur very patiently and
6 compassionately processed those frivolous pleadings.

7 At some point actually right before trial, he
8 reached a point where he felt that these pleadings had,
9 because of what they were and the number of pleadings that
10 had been filed, everything taken together, constituted
11 obstructive conduct on the part of the defendant and he ruled
12 that she could not represent herself and that's when he asked
13 Ms. Phillips, I believe, to become her counsel. Right?

14 MS. SOLOMON: Ms. Solomon.

15 THE COURT: I'm sorry?

16 MS. SOLOMON: Ms. Solomon.

17 THE COURT: I'm sorry. Ms. Solomon to become
18 counsel.

19 At the same hearing -- and I might add, by the way,
20 he in part relied on a Fourth Circuit case that I agreed with
21 him was very instructive called *U.S. versus Brunson*, 482 Fed.
22 Appendix 811. In any event at the same hearing, he also came
23 to the conclusion that he should not be the judge sitting in
24 the case and there had been or was a decision made that a
25 judge should be brought in from outside the district and that

1 was me and I had a hearing on this case on August 28th.

2 At that time, the defendant renewed her request to
3 represent herself. At the time the prosecutor joined in our
4 request, I believe, stating you believed that the nature of
5 her conduct did not rise to the level of obstruction that the
6 case is required and I had a conversation with the defendant
7 at that hearing and I think it's certainly fair to say that
8 she was polite, she appeared to be lucid, and she promised
9 that she would not file any more frivolous motions. So at
10 that point, I granted her request to represent herself.

11 There was an issue about her conditions of bond. I
12 ruled on that. I said I would reconsider that at this
13 hearing today. I asked her if she had any pretrial motions.
14 She said, in fact, she did and that she would be prepared to
15 file that motion within just a few days of that hearing on
16 August 28th. I set at that moment for the filing of such a
17 motion of September 13th. There was no motion filed;
18 nothing. I might add parenthetically that I told her at the
19 time when we were discussing this motion that she hadn't
20 filed -- I had no idea at the time what the motion might be
21 but I said that in view of everything that had happened
22 before, I saw this motion as a test of sorts as to whether or
23 not she appeared capable of representing herself and she
24 assured me that she would not file the kind of motions that
25 she had been filing.

1 She filed a motion on December 11th, a motion to
2 dismiss. It is perhaps an understatement to say that it is
3 total gibberish. There's one assertion at the beginning and
4 it's correct, I believe she was indicted on November 8th, and
5 then virtually everything after that is totally nonsensical
6 and frankly incoherent. She says, for example, the United
7 States has mistakenly sought to attach the living body of the
8 executrix River Bey of the Cherron Marie Phillips' trust as
9 territorial property of the United States; and it goes
10 downhill from there. And attached to that are various
11 affidavits and other documents that are equally incoherent.
12 They have no bearing -- and I underscore the word no --
13 bearing on the matter that brings her to this court which is
14 the indictment, the criminal charges in this case.

15 So in regard to my comment to you that this --
16 any motion that you file would be considered kind of a test
17 to see if you were going to keep your word or if you were
18 capable of keeping your word as to the substance of what you
19 made, you failed that test utterly and completely so now I
20 have very serious concerns.

21 I certainly have the same concern that Judge Shadur
22 had as he expressed and for the same reasons but with the
23 additional type of thing that's set out in her most recent
24 motion to dismiss as to the question of whether or not it is
25 appropriate for me to allow you to represent yourself but

1 frankly that concern has become secondary. My major concern
2 at this point after reviewing again everything that Judge
3 Shadur had and now what's been put in the file since I've had
4 the case, I have a very serious question about your
5 competence to stand trial.

6 This question of whether or not a defendant is
7 competent to stand trial is usually raised by counsel,
8 sometimes by defense counsel or other times by the
9 prosecutor, but the choices are not limited to that. In
10 fact, the statute which is 18 U.S.C. 4241 says that the
11 defendant or the attorney for the government may file a
12 motion for a hearing to determine the mental competency of
13 the defendant. The Court shall grant the motion or shall
14 order such a hearing on its own motion.

15 And there are also some Seventh Circuit cases. For
16 example, the case of *U.S. versus Andrews*, 469 F.3d. 113 --
17 1113, I'm sorry, it's a Seventh Circuit case from 2006, that
18 says: As this Court explained, unquestionably due process
19 requires a defendant to be competent to stand trial. To be
20 competent, a defendant must have the sufficient present
21 ability to consult with his attorney with the reasonable
22 degree of rational understanding and must have a rational as
23 well as factual understanding of the proceedings against him;
24 and I would point out that this most recently filed motion
25 indicates to me with utter clarity that the defendant does

1 not appear to have a factual understanding of the proceedings
2 against her. Regardless of whether the defendant moves for a
3 competency evaluation, the due process clause requires the
4 trial judge to inquire sua sponte into a defendant's mental
5 state if events in court imply that the accused may be unable
6 to appreciate the nature of the charges or assist counsel in
7 presenting a defense. That's where I believe we are now.

8 I'm certainly open at this point before I make a
9 decision on whether or not to order an examination and
10 hearing on the question of the defendant's competency to
11 stand trial. I'm certainly willing to hear what counsel,
12 stand-by counsel and the defendant have to say on this point
13 before I make a decision.

14 Do you have anything that you would wish to say on
15 this matter?

16 THE DEFENDANT: Yes.

17 THE COURT: And if I could ask, because I'm a little
18 hard of hearing, if you could come up and use the microphone
19 at the podium, I would appreciate it. Right there. Thank
20 you.

21 THE DEFENDANT: Okay. I'd like to ask -- excuse me.
22 For the record, what does the competency exam have to do with
23 the charges brought against the trust?

24 THE COURT: Because we believe that in our criminal
25 system, it's not appropriate to go forward with prosecution

1 of someone in a criminal case unless it's determined that the
2 person is competent to stand trial which means competent to
3 understand the factual circumstances leading to the charges
4 and, secondly, being able if they're represented by counsel
5 to effectively communicate with their attorney. That's why.

6 THE DEFENDANT: Okay. I guess I would say I don't
7 quite understand because if there's charges that's been
8 brought and there's been an asset that's been presented to
9 satisfy those charges, then where is the conflict, sir?

10 THE COURT: Okay. Do you have any other -- I'm not
11 going to try -- I'm not going to get into the same kind of
12 discussions that you had with Judge Shadur where every
13 question is asked -- is responded to with another question.

14 I've told you where I am. I have serious concerns
15 as to whether or not you are competent to stand trial. If
16 you have anything you wish to say to me before I make a
17 decision on that, I'm happy to hear it but please address
18 that point.

19 THE DEFENDANT: Right. And I guess my question to
20 you was I'm not clear -- I'm not clear how that has -- how
21 that has anything to do with the charges that's been brought
22 against the trust.

23 THE COURT: Okay. Well, I've already answered that
24 question. Does the prosecutor have any input on this?

25 MR. STUMP: Your Honor, I just say for the record

1 that I understand why the Court has that concern. I guess I
2 share that concern about her competency only for purposes of
3 protecting a record and making sure that we are not
4 inadvertently prosecuting somebody who is mentally
5 incompetent. But from where I stand, this is not some sort
6 of mental defect or something like that. This is a situation
7 where the defendant is taking what may be a misguided but
8 deliberate obstructionist strategy in terms of her defense
9 and that's what I think this is. But beyond that, my
10 own dealings her, my own observations, she's rational, she's
11 lucid. She's just pursuing a strategy that manifests itself
12 in this way.

13 THE COURT: Okay. Do you have anything you would
14 like to add?

15 MS. SOLOMON: Yes, your Honor.

16 THE COURT: I'd be very happy to hear what you have
17 to say.

18 MS. SOLOMON: I have -- Lauren Solomon on behalf of
19 the -- stand-by counsel.

20 THE COURT: Right.

21 MS. SOLOMON: In my brief dealings with
22 Ms. Phillips, it has become apparent to me that it is, for
23 whatever reason, that Ms. Phillips is not able or willing to
24 assist counsel in the preparation of a defense and I don't
25 believe that it's my personal appearance or interactions with

1 her, that it would be the same with any counsel that was
2 appointed on her behalf.

3 THE COURT: Okay. And I appreciate that input
4 from -- and I know you're in a difficult situation in this
5 case.

6 All right. My ruling is that pursuant to Title 18,
7 Section 4241, I am going to order that the defendant be
8 examined to determine her competency to stand trial. I would
9 also suggest just as a -- I don't have to do this and I'll be
10 happy to hear what your input is on this. When I have a case
11 like this in Peoria where I order such an examination, I also
12 ask them to consider the question of insanity because that is
13 an issue that could come up in the trial and since they're
14 being examined, it's a two-fer, if you would, so the process
15 doesn't have to be repeated.

16 If I were in my home court, what would happen is
17 that the defendant would be taken into custody and would be
18 examined by the Bureau of Prisons which usually means 30
19 days, 60 days, sometimes 90 days. I know in my court people
20 who are sent for examination sometimes go to Rochester or
21 sometimes they go to Springfield, Missouri. Once in a while,
22 they'll actually come to Chicago and be examined here.

23 I'm completely open at this point as to the
24 question -- now that I've decided that there is going to be a
25 mental examination, I'm completely open to suggestions as to

1 how best to accomplish that. For example, if it could be
2 accomplished with her remaining on bond and being examined by
3 some appropriate person here in Chicago or maybe even at the
4 Bureau of Prisons, I don't know, obviously that would be
5 ideal. I don't know if that works or not; and I know I'm
6 hitting everybody with this cold so -- but I'm very happy to
7 hear what you have to say about that.

8 Ms. Solomon, do you have any experience up here in
9 this type of situation?

10 MS. SOLOMON: I have not had -- I have not had
11 experience with that but I would like to make inquiries to
12 make sure -- to inquire whether or not that would be possible
13 with Ms. Phillips out on bond as she does have young children
14 at home.

15 THE COURT: What is the government's position on
16 this? I mean --

17 MR. STUMP: I have another case right now where the
18 defendant has been sent to the MCC here for an evaluation.
19 She was taken into custody for that purpose.

20 THE COURT: Right.

21 MR. STUMP: I know the examination can be done here
22 and done well. And in terms of whether she needs to be in
23 custody for that or not, I just have to defer to the person
24 conducting the examination. I know that there is some value
25 when a person is in custody, they can be observed in the

1 general population, that sort of thing.

2 THE COURT: I know.

3 MR. STUMP: I don't know that that's necessarily
4 needed in this case.

5 THE COURT: Well, I mean, in an ideal world -- and I
6 don't even know who the possibilities are -- but if there
7 could be an agreement, for example, that she be examined by
8 some doctor without being taken into custody, then that would
9 be -- that would obviously be the best situation.

10 MS. SOLOMON: It would be most likely someone who
11 comes in from the outside who goes into the MCC to conduct
12 the examination so it would probably be preferable to that
13 person as well to do it on the outside of the prison than
14 versus being inside.

15 THE COURT: Do we know --

16 THE DEFENDANT: Your Honor, if I may.

17 THE COURT: Do we know whether it's possible for a
18 person to receive a mental evaluation at the MCC facility
19 without being in custody?

20 MR. STUMP: Your Honor, I don't know the answer to
21 that question. I'd be happy to look into it immediately.

22 THE COURT: Yeah. And then the other thing is -- I
23 mean, normally what happens is if some doctor other than
24 someone with the Bureau of Prisons, say a privately retained
25 person, does a mental examination, they come back with a

1 report and it may be very favorable to the defendant and then
2 what almost always happens next is then the prosecution says
3 well then all right now we want our guy to test her and then
4 she ends up going off to the Bureau of Prisons. So I'm
5 trying to figure out if there's some way that we could meet
6 everyone's legitimate needs and at the same time leave her on
7 bond. I don't know the answer.

8 Let me ask you this: I have a hearing at 1:00
9 o'clock. I don't know what your schedules are. Is it
10 possible that we could have another hearing at 1:30?

11 MS. SOLOMON: Yes, your Honor.

12 MR. STUMP: That's fine with me, your Honor.

13 THE COURT: Could you be here at 1:30?

14 THE DEFENDANT: Can we make it 2:00 if that's okay?

15 THE COURT: I'm sorry?

16 THE DEFENDANT: Can we make it at 2:00 o'clock?

17 MS. SOLOMON: I'm sorry, Judge. I would not be
18 available at 2:00.

19 THE COURT: I think it would have to be at 1:30.

20 THE DEFENDANT: Okay. I'll have to juggle some
21 things --

22 THE COURT: Sorry?

23 THE DEFENDANT: Okay. That's fine. 2:00 o'clock.
24 I mean, 1:30.

25 THE COURT: Okay. So we'll all be back here at 1:30

1 and I'll make a decision at that time about the details of
2 the mental examination and hopefully you'll have some time to
3 confer and look at the possibilities.

4 Because that's where I am, any issues concerning
5 whether or not I feel it's appropriate for her to represent
6 herself it seems to me have to be put aside until the
7 question of her competency to stand trial have been answered.

8 Yes?

9 THE DEFENDANT: If you don't mind, again I'd like to
10 ask the question, what does the competency have to do with
11 the charges brought to the trust?

12 THE COURT: Because if you're not competent to stand
13 trial, the government cannot pursue the prosecution until and
14 unless it's determined that you are, in fact, competent to
15 stand trial.

16 THE DEFENDANT: Would there be need for a trial if
17 the charges have been satisfied?

18 THE COURT: If what?

19 THE DEFENDANT: If the charges has been satisfied,
20 then why would there be a need for the trial?

21 THE COURT: Well, I can't speak for the prosecutor.
22 I'm not aware of anything at this point that would satisfy
23 the charges. The options concerning the charges as I
24 understand them are, he could decide to dismiss the charges,
25 you could decide to plead guilty, or the case would go to

1 trial. I am not aware of any other possibilities.

2 THE DEFENDANT: Okay. Well, there's a sufficient
3 asset that's been presented to the Court that would satisfy
4 the charge.

5 THE COURT: The discussion of the asset or the
6 assets you referred to in here, as far as I can tell, has
7 absolutely no relevance to this criminal prosecution.

8 THE DEFENDANT: Is there any way I could get that in
9 writing, sir?

10 THE COURT: I'm sorry?

11 THE DEFENDANT: May I get that in writing?

12 THE COURT: May you what?

13 THE DEFENDANT: Can I get that in writing, please?

14 THE COURT: I'm not going to write it down for you.
15 I've just told you that.

16 THE DEFENDANT: Well, would the prosecution have
17 to --

18 THE COURT: Did you hear me? Did you hear me? I
19 told you, it has no relevance.

20 THE DEFENDANT: Would the prosecution --

21 THE COURT: If you want a transcript of the hearing,
22 you can get that from the court reporter but I'm not going to
23 play these games.

24 THE DEFENDANT: No. It's not a game at all.

25 THE COURT: You be back here at 1:30. Counsel,

1 you'll be back at 1:30. I would ask that you explore the
2 possibility of having her examined either by a private doctor
3 or someone affiliated with BOP but try to do it on an
4 out-patient basis but that may or may not work.

5 MS. SOLOMON: Thank you, Judge.

6 MR. STUMP: Thank you, your Honor.

7 THE COURT: Okay. All right. Thank you. 1:30.

8 (Break in proceedings; after which the following
9 proceedings were had in open court at 1:30 o'clock p.m.):)

10 THE COURT: Okay. This is the case of *United States*
11 *of America versus Cherron Marie Phillips*, 12-00872. The
12 defendant is in court. Stand-by counsel Lauren Solomon is in
13 court and Attorney Nathan Stump is here representing the
14 government.

15 When we left, the question was what options were
16 available concerning mental testing. Where are we on this?

17 MR. STUMP: Your Honor, over the lunch break, I
18 spoke with a Dr. David Chehowski (phonetic) at the MCC here
19 in Chicago about the possibility of Ms. Phillips being seen
20 by their staff while she remains out on bond. He told me
21 that that would not be possible. They have a staff of three
22 psychologists there. They could see her but she would have
23 to be remanded into custody to do that. I asked him --

24 THE COURT: This is MCC or --

25 MR. STUMP: This is the MCC. I asked him if there

1 were any other options for someone who is out on bond in the
2 City that he would recommend and he did recommend a group to
3 me called Isaac Ray. I-s-a-a-c, R-a-y. He told me that they
4 regularly perform evaluations in criminal cases both federal,
5 state and local and that they do a good job and they could
6 see her on an out-patient type basis.

7 THE COURT: Okay. Is this somebody you're familiar
8 with?

9 MS. SOLOMON: Yes, I am.

10 THE COURT: Pardon me?

11 MS. SOLOMON: Yes. I am, Judge. I also contacted
12 the attorneys at the Federal Defender Office and they also
13 recommended that Isaac Ray Forensics Group be the ones who do
14 the -- conduct the examination. They regularly do
15 examinations for federal court in this building.

16 THE COURT: How long does that process usually take,
17 do you know, about 30 to 60 days?

18 MS. SOLOMON: Something like that, your Honor.

19 THE COURT: All right. So this group -- Well, let
20 me ask you this: So what you learned was that if she is
21 tested on an out-patient basis by these people that -- are
22 you telling me then that the government will not ask for
23 follow-up testing by the Bureau of Prisons?

24 MR. STUMP: Your Honor, it's hard for me to promise
25 that at this time not seeing what they come up with; but

1 based on my discussion with the BOP forensic evaluator who
2 recommended them to me, said they do a good job, I can only
3 assume that we'll be satisfied with whatever they come up
4 with.

5 THE COURT: Well, then it might be worth taking a
6 risk on it. What I don't want to happen is to have her
7 examined twice, once by them and then by BOP.

8 MS. SOLOMON: This is a group that regularly is
9 agreed upon by both the government and the defense.

10 THE COURT: So are you willing to agree with this
11 process of going to wherever these people -- where are they
12 located, do you know?

13 MS. SOLOMON: 200 South Michigan Avenue just -- not
14 very far from here.

15 THE COURT: And what's the name of the group again?

16 MS. SOLOMON: It's Isaac Ray Forensics Group.

17 THE COURT: Okay. Are you willing to go there when
18 you're told to be there and participate in whatever the
19 testing process is?

20 THE DEFENDANT: It has been your order; is that
21 correct?

22 THE COURT: I'm sorry?

23 THE DEFENDANT: I said it has been your order; is
24 that correct?

25 THE COURT: It will be in my order; yes.

1 THE DEFENDANT: Okay. Then I will stay in honor
2 with the Court.

3 THE COURT: Pardon?

4 THE DEFENDANT: I said, then I will stay in honor
5 with the Court.

6 THE COURT: Okay. Yeah, because -- and I'm not
7 saying this just to threaten you; it's just true. If you
8 don't cooperate, then I'll order that you be taken into
9 custody and be tested in the Bureau of Prisons so I think
10 this is the best alternative for you. Now I'm going to need
11 an order. I don't know if you have a form that you usually
12 use for this.

13 MR. STUMP: Your Honor, I'm sure we can provide one
14 this afternoon.

15 THE COURT: If you can confer with counsel on that,
16 submit something to me, I'll sign it when I get it. It will
17 probably take a couple days, some period of time to set this
18 up. And then maybe what we should do is set a status hearing
19 on this in, say, 45 days. And if they're ready -- if they've
20 completed the report and submitted it, then we'll have the
21 hearing and take a look at it. It's not unusual to ask for
22 more time in these things so we'll play that by ear.

23 What would about 45 days be?

24 COURTROOM DEPUTY: December 2nd.

25 THE COURT: Pardon?

1 COURTROOM DEPUTY: December 2nd.

2 THE COURT: December 2nd.

3 MR. YASUNAGA: Christmas is 45 days.

4 THE COURT: I'm sorry?

5 MR. YASUNAGA: The holidays is 45 days so if you
6 want to put it the first week of January?

7 THE COURT: She said it's December 2nd.

8 COURTROOM DEPUTY: 45 days from today?

9 MR. YASUNAGA: Oh.

10 THE COURT: When do you start celebrating? What day
11 of the week is that?

12 COURTROOM DEPUTY: Monday.

13 THE COURT: Monday. Monday is --

14 MR. YASUNAGA: December 3rd, we're clear.

15 THE COURT: Monday?

16 MR. YASUNAGA: Tuesday, December 3rd, is empty for
17 us.

18 THE COURT: That's better?

19 MR. YASUNAGA: And that's one day. I didn't hear
20 the other day.

21 THE COURT: December 2nd.

22 MR. YASUNAGA: December 2nd. That's Monday --

23 THE COURT: Well, Monday is my busy day. Would
24 December 3rd work?

25 MR. STUMP: Your Honor, that whole week is not good

1 for me unfortunately. I wonder if we had it set for a trial
2 December 16th, is it possible we just meet on the 16th which
3 is also I think a Monday?

4 THE COURT: That's fine. I don't think it's going
5 to go to trial on the 16th of December but we already have
6 that set for -- I have that time set so it is convenient in
7 that sense. Will that work for you?

8 MS. SOLOMON: That would be fine, Judge.

9 THE COURT: Is that -- Will that work for you?

10 THE DEFENDANT: Yes, your Honor. I'd like to also
11 ask, assuming that this motion that I presented to the Court
12 had been dismissed -- I mean, has --

13 THE COURT: The motion to dismiss that you submitted
14 on October 11th is denied.

15 THE DEFENDANT: Right. In the alternative, I'd like
16 to know if the Court can show cause why the leg band or the
17 home detention should continue.

18 THE COURT: Okay. That's a good point because we
19 did talk about it the last time and I said we'd talk about it
20 again this time.

21 I will tell you frankly that based on the filing
22 that you made here that I just dismissed and because of the
23 concerns that I have about your mental condition, I cannot
24 believe that -- I can't think of an argument that could be
25 made that would change the order as it now stands.

1 THE DEFENDANT: Okay. I don't see any reason why it
2 should continue because I don't have a problem coming to
3 court. That's not the issue.

4 THE COURT: Right.

5 THE DEFENDANT: The issue is not me being present in
6 court.

7 THE COURT: Right.

8 THE DEFENDANT: I do have an issue with meeting
9 other deadlines because of the time constraints that I have
10 currently right now. So here again, if there's nothing
11 before the Court, I do ask that this be removed.

12 THE COURT: Well, I'm telling you that based on my
13 assessment of your mental situation based on the pleadings
14 that have just recently been filed, I am not willing to
15 change your conditions of bond.

16 THE DEFENDANT: Okay. Then my other question would
17 be can the Court account for the asset that's been presented
18 already to the Court?

19 THE COURT: I'm sorry?

20 THE DEFENDANT: Can the Court account for the asset
21 that's been presented to the Court or either return it?

22 THE COURT: I'm not even going to go there.

23 THE DEFENDANT: I'm asking that it returned.

24 THE COURT: Are you talking about the asset that was
25 discussed in the motion to dismiss?

1 THE DEFENDANT: Yes.

2 THE COURT: I'm not going there. That motion was
3 dismissed. That's it.

4 THE DEFENDANT: But that was the request in the
5 alternative that the motion was dismissed.

6 THE COURT: I'm not going there. Anything else
7 today?

8 COURTROOM DEPUTY: Judge, what time on the 16th of
9 December do you want them to come in?

10 THE COURT: Well, we had planned to start trial that
11 day so I would say 9:00 o'clock. I don't think the trial
12 could start on that day because we would be considering the
13 motion concerning her competence to stand trial. And then
14 once that's resolved, then there's still the question of
15 whether she would represent herself or be represented and
16 what a realistic trial date would be.

17 MS. SOLOMON: That's correct, Judge.

18 THE COURT: Am I correct about that?

19 MR. STUMP: I think that's the reality, your
20 Honor.

21 THE COURT: So I'm going to find that the period of
22 time between today and December 16th is excludable time for
23 purposes of the Speedy Trial Act because of the need to
24 conduct a mental evaluation, give everyone an opportunity to
25 analyze that, allow us an opportunity to have a hearing on

1 the issue of competence and also depending on the Court's
2 findings make a final decision concerning representation --
3 self-representation or representation by counsel and then set
4 a realistic trial date, so.

5 COURTROOM DEPUTY: We're striking the December 16th
6 trial date?

7 THE COURT: I'm sorry?

8 COURTROOM DEPUTY: We're striking the December 16th
9 trial date?

10 THE COURT: It's -- yes. We're striking it as the
11 trial date. That's correct. Are there any objections to
12 those findings?

13 MR. STUMP: No, sir.

14 THE COURT: Concerning the -- just concerning the
15 Speedy Trial.

16 MS. SOLOMON: No, Judge.

17 THE COURT: Okay. Then we're done.

18 MR. STUMP: Your Honor, the order that will be
19 provided to the Court this afternoon, that would be both as
20 to competency and sanity at the time of the offense; is that
21 right?

22 THE COURT: Well, I recommend that because they're
23 going to be asking the same questions. What normally
24 happens, or at least it has in the last few years, we used to
25 get it all in one report. But in the last four or five

1 years, at least the Bureau of Prisons, they split it up the
2 findings into two parts separate. I don't remember what the
3 reason for that is but -- I just recommend that it's in
4 everyone's best interest to consider both of those things at
5 the same time.

6 MR. STUMP: Yes, sir.

7 THE COURT: Okay.

8 MS. SOLOMON: Thank you, Judge.

9 THE COURT: Okay. I'm going to be driving back to
10 Peoria this afternoon. If you have conferred -- probably
11 tomorrow morning would be best to submit it for you and I'll
12 be in my chambers early tomorrow.

13 MR. STUMP: Thank you, your Honor. We will submit
14 it.

15 MS. SOLOMON: Thank you, Judge.

16 THE COURT: All right. Thank you very much.

17 (Which concluded the proceedings in the above-entitled
18 matter.)
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1 C E R T I F I C A T E

2 I hereby certify that the foregoing is a transcript
3 of proceedings before the Honorable Michael M. Mihm on
4 October 16, 2013.

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6

7 /s/Laura LaCien

8 Laura LaCien
9 Official Court Reporter

January 26, 2015
Date

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